

STATEMENT OF FACTS

Your affiant, Aaron Erkkinen, is a Special Agent with the Federal Bureau of Investigation (“FBI”) Detroit Field Office, Joint Terrorism Task Force. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations of Federal criminal laws. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

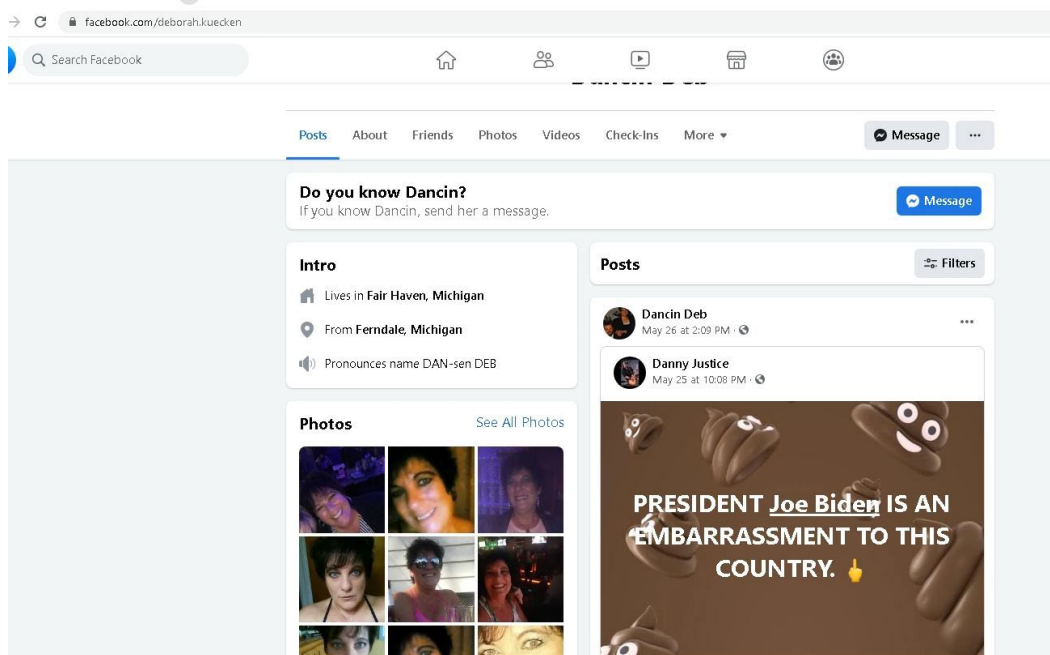
On June 7, 2021, the FBI opened an investigation based on a tip that DEBORAH KUECKEN (KUECKEN) and her brother, GARY FRANCIS SMITH (SMITH), were present inside the United States Capitol Building on January 6, 2021.

According to records obtained through a search warrant served on Verizon, on January 6, 2021, in and around the time of the incident, the cellphone associated with the telephone number ending with -0927 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the U.S. Capitol building.

In June 2021, a subpoena was served to Verizon for the cellular telephone number ending with -0927, which was returned as affiliated with SMITH and his residence located on Bart Drive, Casco, MI 48064. The return also indicated the number was associated with a Moto G6 cellular device, IMEI 352165100384887.

The FBI obtained images of KUECKEN from the Michigan Secretary of State and Facebook¹ (see Image 1) and matched them to a woman who had short, dark hair, wearing an olive or tan colored parka with a high-necked, white, furry collar, a bright green scarf, and sunglasses perched on top of her head, who stood on steps on the East Front of the Capitol on January 6, 2021. See Images 2-4.

Image 1



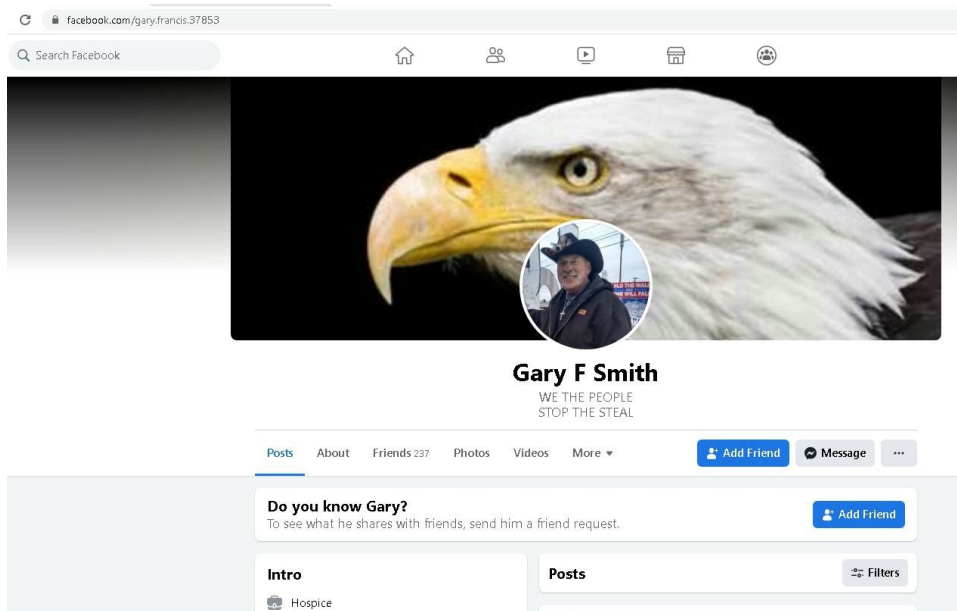
¹ Facebook subpoena return indicated Facebook user ID 100003705482287 (associated with URL: facebook.com/deborah.keucken) was affiliated with KUECKEN.

Images 2-4



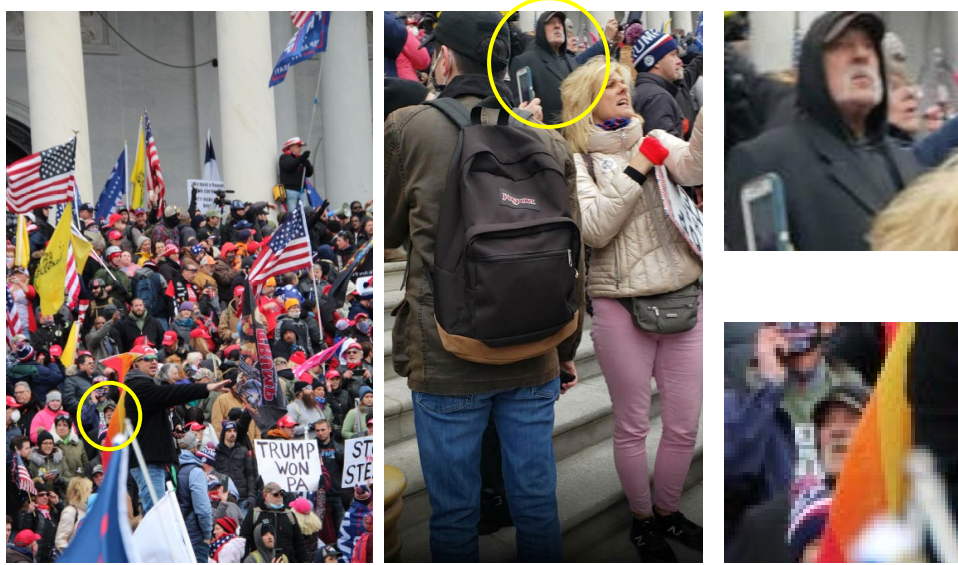
KUECKEN appeared to be standing next to a man whose appearance was consistent with known images of her brother, SMITH (from SMITH's driver's license image, as well as images from his Facebook account²; see Image 5). SMITH had a white horseshoe-style mustache and white hair and wore a dark-colored coat over a hooded sweatshirt, and a baseball-style cap with an Old English "D" on it consistent with the Detroit Tigers' logo. See Images 6-9.

Image 5



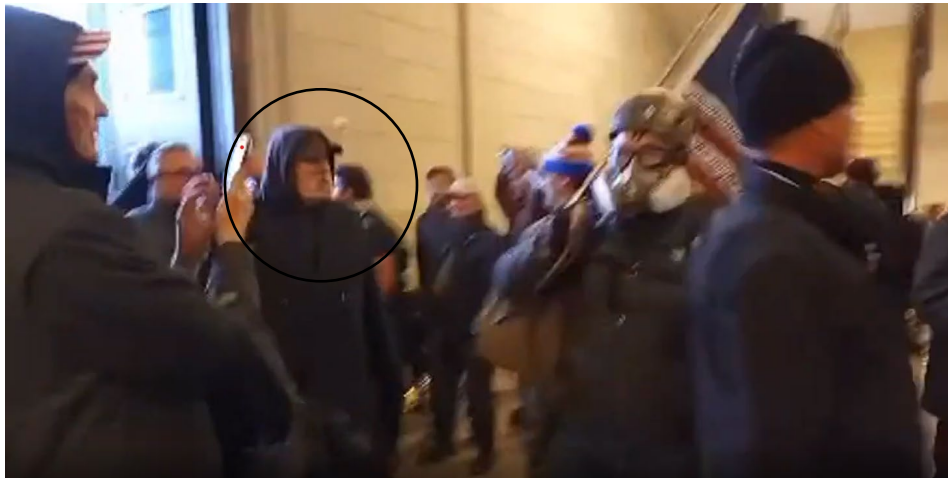
² Facebook subpoena return indicated Facebook user ID 100037870807150 (associated with URL: facebook.com/gary.francis.37853) was affiliated with SMITH.

Images 6-9



KUECKEN and SMITH were present on the East Front of the Capitol Building, in close proximity to the Rotunda Doors when the rioters overran and assaulted officer at approximately 2:38 p.m. At approximately 3:02 p.m., KUECKEN and SMITH entered the Capitol through the Rotunda doors with other rioters. See Images 13-15.

Image 13



Images 14 and 15



From approximately 3:02 to 3:05 p.m., KUECKEN and SMITH walked nearby each other inside the Rotunda. See Images 16-19. SMITH appears on KUECKEN's right-hand side in Images 17 and 18.

Images 16-18

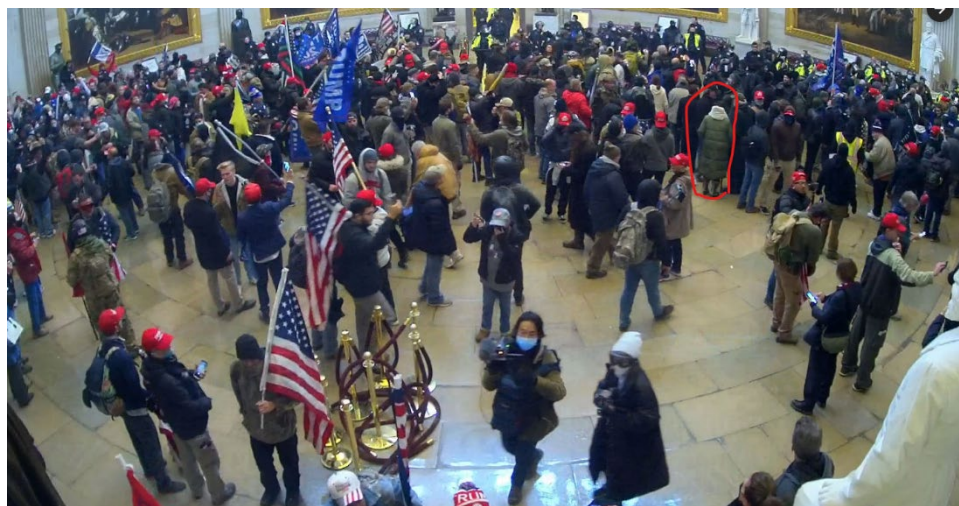


Image 19



KUECKEN and SMITH exited the Capitol through the Rotunda doors at approximately 3:06 p.m. See Images 20-21.

Image 20

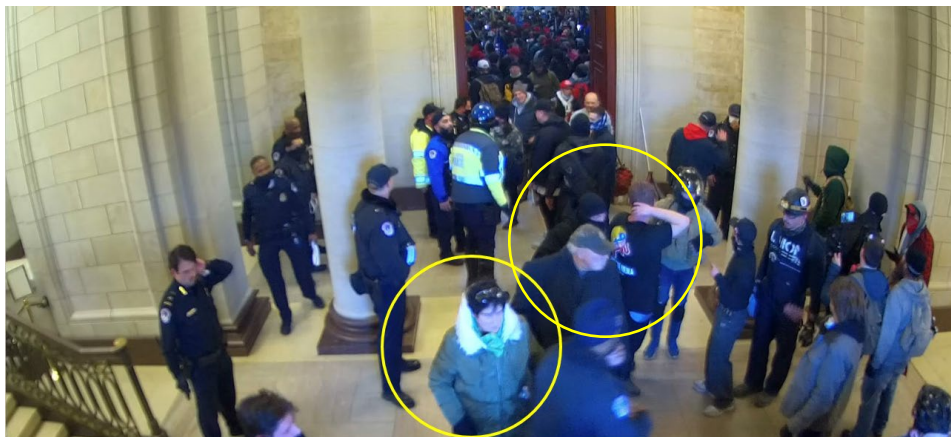
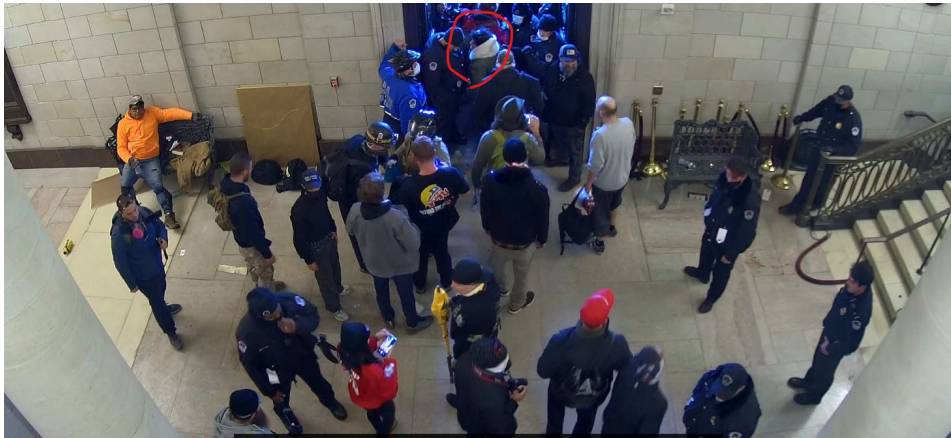


Image 21

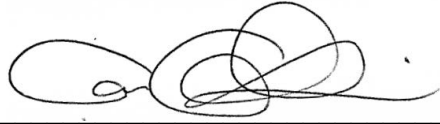


On October 6, 2021, FBI agents conducted an interview with SMITH's son, B.S. B.S. was shown photographs and still images (of video from inside the U.S. Capitol building) from the unrest on January 6, 2021. B.S. positively identified KUECKEN and SMITH as depicted in Images 2-4 and 6-9.

Based on the foregoing, your affiant submits that there is probable cause to believe that DEBORAH KUECKEN and GARY FRANCIS SMITH violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant further submits there is also probable cause to believe that DEBORAH KUECKEN and GARY FRANCIS SMITH violated 40 U.S.C. § 5104(e)(2), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations

of, a committee of Congress or either House of Congress and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

A handwritten signature in black ink, appearing to read 'Aaron Erkinen', written over a horizontal line.

Aaron Erkinen
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 21st day of October 2022.

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE